REMARKS

Applicant respectfully requests reconsideration of this application, as amended.

The Examiner is thanked for the thorough review of the application. Claims 16, 38, 17 and 39 have been amended in accordance with the Examiner's recommendation.

By this amendment, the independent claims have been amended to recite generally that, as recited in claim 1, determining:

at least one of (i) a bandwidth utilization level for a first path including a first link, and (ii) an available bandwidth level for the first path, *and*

one or more Quality of Service or QoS metrics for the first path;

(b) comparing the determined at least one bandwidth level and the one or more Quality of Service or QoS metrics to one or more selected thresholds to determine whether a new live voice communication may be set up with a first selected codec...

Neither Shaffer nor Graham teach, suggest or disclose the use of the combination of both the QoS metrics and bandwidth level as claimed.

The references, taken either alone or in combination, fail to teach or suggest each and every claimed feature. Independent claims 1 and 23 are therefore patentably distinguishable therefrom.

The dependent claims are further distinguishable for at least the above reasons and the additional feature(s) recited therein. For example:

Claim 2 recites that the wherein substep (c)(i) is performed and further comprising:

receiving a request to place the live voice communication; and

setting up the live voice communication with the second codec;

Claim 3 recites, wherein each of a plurality of codecs has a corresponding bit rate and/or required bandwidth level and the selecting step comprises: comparing at least one of the available bandwidth level and the bandwidth utilization level with the plurality of bit rates and/or bandwidth levels; and

selecting the highest quality codec having a corresponding bit rate and/or bandwidth level permitted by the at least one of the available bandwidth level and the bandwidth utilization level;

Claim 4 recites, wherein the comparing comprises:

comparing at least one of (i) a bandwidth utilization level and (ii) an available bandwidth level with one or more selected thresholds; and

comparing one or more Quality of Service or QoS metrics with one or more selected thresholds, wherein the second codec has a bandwidth usage characteristic sufficient to satisfy the comparing steps;

Claim 5 recites, wherein the comparing step comprises:

estimating an impact on the one or more QoS metrics from placing the new live voice communication with the second codec;

Claim 6 recites, wherein, when there is no codec from among the plurality of codecs that satisfies the one or more thresholds, performing one or more of blocking the new live voice communication and redirecting the new live voice communication from a packet-switched network to a circuit-switched network;

Claim 7 recites, wherein substep (c)(ii) is performed;

Claim 8 recites, wherein, when the existing live voice communication was set up, the first and second codecs were identified as being acceptable to both endpoints;

Claim 9 recites, wherein substep (c)(ii) comprises:

renegotiating with the destination the codec to be used in the live voice communication;

Claim 11 recites, wherein the first link corresponds to a first set of port numbers and the second link to a second set of port numbers, wherein the first and second sets of port numbers are non-overlapping, wherein packets addressed to one of the first set of port numbers are directed along the first link and packets addressed to one of the second set of port numbers are directed along the second link and wherein the redirecting step comprises:

selecting for the packetized live voice communication a port address from the first set of port numbers when a new live voice communication can be set up with the first selected codec and

selecting for the packetized live voice communication a port address from the second set of port numbers when a new live voice communication cannot be set up with the first selected codec;

Claim 12 recites, wherein in the determining step the bandwidth utilization level is determined;

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Claim 13 recites, wherein the bandwidth utilization level is determined by polling a local edge router;

Claim 14 recites, wherein the bandwidth utilization level is the end-to-end bandwidth;

Claim 15 recites, wherein in the determining step the available bandwidth level is determined;

Claim 16 recites, wherein the available bandwidth level is determined by polling a local edge router;

Claim 17 recites, wherein the available bandwidth level is the end-to-end bandwidth;

Claim 18 recites, wherein one or more QoS metrics is determined for the first path;

Claim 19 recites, wherein the one or more QoS metrics is at least one of packet delay, jitter, packet loss, the availability of Differential Services Code Point, and RSVP status;

Claim 20 recites, wherein the available bandwidth level is the bandwidth allocated to live voice communications less the bandwidth utilization level.
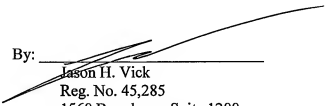
Similar distinctions can be seen in the corresponding apparatus claims.

Based on the foregoing, Applicants believe that all pending claims are in condition for allowance and such disposition is respectfully requested. In the event that a telephone conversation would further prosecution and/or expedite allowance, the Examiner is invited to contact the undersigned.

Respectfully submitted,

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